

JAN 20 2011

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 10-90118, 10-90119,  
10-90120 and 10-90121

**ORDER**

**KOZINSKI**, Chief Judge:

A pro se litigant alleges that a district judge erroneously ruled against him in his civil suit, and that a panel of three circuit judges improperly failed to “perform the duties of the office when they simply affirmed without any review of the DC’s decision.” These charges relate directly to the merits of the judges’ rulings and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant further alleges that the district judge should have recused himself because defense counsel had represented the judge in a previous matter. But complainant admits that the judge disclosed this former representation, yet complainant did not ask the judge to recuse. And complainant has provided no evidence that the judge favored defendant or otherwise acted in a manner prejudicial to the effective and expeditious administration of the business of the

courts. See 28 U.S.C. § 351(a). This charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(A).

Complainant also seems to allege that the judges were biased against him, but he provides no objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009). He states that “[b]oth courts should be aware of numerous studies that indicate bias in the district court and appellate system,” but doesn’t cite any of these studies. In any event, studies aren’t evidence of misconduct unless they identify actions by the subject judge, which complainant doesn’t claim they do. Because there is no evidence of misconduct, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further objects to various “barriers [put up] to prevent [i]ndividual claims from even being addressed in the court system,” but identifies only “the DC and 9<sup>th</sup> Circuit” as the source of these barriers. These claims must be dismissed because the misconduct procedure applies only to judges, not to institutions. See 28 U.S.C. § 351(a); Judicial-Conduct Rule 4.

**DISMISSED.**